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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,468	07/13/2001	O.C. Huse	64,294-034	7913

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EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/904,468	Applicant(s) HUSE, O.C. 17A	
	Examiner Marc A Patterson	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/29/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 second paragraph rejection of Claims 1, 3 and 6 – 7, of record on page 2 of the previous Action, is withdrawn.

NEW REJECTIONS

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3 and 6 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speas (U.S. Patent No. 4,207,284).

With regard to Claims 1 and 6, Speas discloses a container assembly comprising a cylindrical container body (drum, therefore having an inner surface and outer surface; column 12, lines 1 – 18) comprising a thermoplastic material (polyethylene; column 12, lines 18) having at least three sides and at least one corner joining the three sides (a modified corner configuration, in which a flat edge, therefore a flat side, joins the top and sidewall of the container; column 8, lines 18 – 21; Figure 11) and having a reinforcement bonded to the outer surface of the corner having a peripheral edge including a bottom surface and top surface (insert which adds rigidity; column 13, lines 3 – 11; Figure 19); the thermoplastic material of the container body being disposed over the bottom and top surface (a lid is used which covers the

Art Unit: 1772

left side of the top surface, the bottom surface being in contact with the container; column 12, lines 36 – 50; Figure 19) for mechanically locking the reinforcement to the container body (the reinforcement is locked with a locking ring; column 12, lines 51 – 55; Figure 19) while exposing the top surface of the reinforcement (the right side of the top surface is not covered by the locking ring or the thermoplastic material; column 12, lines 51 – 55; Figure 19). Speas fails to disclose a reinforcement having a bottom surface and a top surface tapering to a pointed edge extending completely about the reinforcement. However, Speas discloses a reinforcement a bottom surface and a top surface between which is a rounded edge extending completely about the reinforcement (column 12, lines 37 – 40). It would have been obvious for one of ordinary skill in the art to have provided for a reinforcement having a pointed edge, rather than a rounded edge, since the modification would have involved a mere change in the shape of the reinforcement. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Speas also fails to disclose a reinforcement that is disposed over the outer surface of three sides of the corner. However, Speas discloses a reinforcement that is disposed over the outer surface of one side of the corner (column 8, lines 18 – 21; Figure 11) and performs an equivalent function to that of the claimed invention, the reinforcement of the corner (column 13, lines 3 – 11). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide for a reinforcement which is disposed over the two additional sides, since it has been held that the omission of an element and its function in a combination where the remaining elements perform the same function as before involves only ordinary skill in the art. *In re Karlson*, 136 USPQ 184.

With regard to Claim 3, the outer surface of the container and the reinforcement disclosed by Speas both comprise polyethylene (column 12, lines 1 – 18); the bond between the container and reinforcement (therefore, also, the edge of the reinforcement) is therefore cohesive.

With regard to Claim 7, Speas teaches the use of screws to further secure the reinforcement to the polyethylene (column 15, lines 16 – 24); the claimed aspect of the reinforcement comprising ‘holes’ therefore reads on Speas.

ANSWERS TO APPLICANT’S ARGUMENTS

4. Applicant’s argument regarding the 35 U.S.C. 112 second paragraph rejection of Claims 1, 3 and 6 – 7, of record in the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn.

Applicant arguments regarding the 35 U.S.C. 103(a) rejection of Claims 1, 3 and 6 – 7 as being unpatentable over Speas (U.S. Patent No. 4,207,284), of record in the previous Action, have been considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 4 of Paper No. 13, that Speas does not suggest a reinforcement cap to protect a three sided corner of a container with the container material wrapped over the tapered edge of the reinforcement.

However, as stated above, the thermoplastic material of the container body of Speas is being disposed over the bottom and top surface of the reinforcement (a lid is used which covers the left side of the top surface, the bottom surface being in contact with the container; column 12, lines 36 – 50; Figure 19). Furthermore, Speas discloses a reinforcement that is disposed over the outer surface of one side of the corner (column 8, lines 18 – 21; Figure 11) and performs an equivalent function to that of the claimed invention, the reinforcement of the corner (column 13,

Art Unit: 1772

lines 3 – 11). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide for a reinforcement which is disposed over the two additional sides, since it has been held that the omission of an element and its function in a combination where the remaining elements perform the same function as before involves only ordinary skill in the art.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold

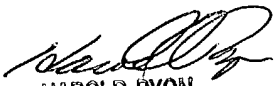
Art Unit: 1772

Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-

9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
Art Unit 1772


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

10/28/04